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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/440,163	11/15/1999	MINORU IMURA	323810/98	2609

21254 7590 06/18/2004

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EXAMINER	
SOBUTKA, PHILIP	

ART UNIT	PAPER NUMBER
2684	10

DATE MAILED: 06/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
09/440163			

EXAMINER	
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	10

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Commissioner for Patents

Office Action Summary	Application No.	Applicant(s)	
	09/440,163	IMURA, MINORU	
	Examiner	Art Unit	
	Philip J. Sobutka	2684	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____ .

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-34* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *6-18 and 21-30* is/are allowed.

6)☒ Claim(s) *1,2,4,19,20 and 31-34* is/are rejected.

7)☒ Claim(s) *3 and 5* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *15 November 1999* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) *6* .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. Claims 1,2,19,20,31-34 are rejected under 35 U.S.C. 102(e) as being anticipated by Bang et al (US 6,222,873).

Consider claims 1,33,34, Bang et al teaches a communication apparatus wherein transmission data containing first and second signal different from the first is transmitted comprising (Bang, control and communication signals see especially fig 7, col 10, lines 50-60): a transmission power controller for controlling at least one of transmission power of the first and second signals in such a manner that the transmission power of the first signal is made coincident with the transmission power of the second (Bang see especially col 10, lines 50-60); and a transmitter for transmitting the transmission data containing the first and second signals in the power controlled by the transmission power controller (Bang see fig 4).

As to claim 19, the apparatus of Bang would perform the claimed steps.

As to claims 2,20, note that Bang teaches multiplying by a predetermined coefficient (Bang see especially col 10, lines 50-60).

As to claim 31, note that Bang teaches one of the signals being the pilot (Bang see especially col 10, lines 50-60)

As to claim 32, of course the total power is comprised of the power of the first and second signals.

Claim Rejections - 35 USC § 103

2. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bang in view of Yoon (US 6,396,868).

Consider claim 4. The nearest prior art as shown in Bang fails to teach the communication apparatus further comprising: interleave means for rearranging sequence of the data. Yoon teaches that it is well known to use interleaving to rearrange sequence of transmitted CDMA data (Yoon see especially col 6, lines 41-62). Yoon also teaches that use of interleaving can reduce interference to other users (Yoon see especially col 7, line 65 – col 8, line 8). It would have been obvious to one of ordinary skill in the art to modify Bang to use interleaving as taught by Yoon in order to prevent interference to other users.

Allowable Subject Matter

3. Claims 6-11,12-18,21-30 are allowed.

Consider claims 6,21. The nearest prior art as shown in Bang fails to teach a method and apparatus for spreading a plurality of transmission data by employing different spreading codes to output spread signals, synthesizing the plurality of spread signals with each other to output a synthesized signal; outputting a predetermined coefficient; multiplying the synthesized signal by the coefficient, and transmitting the signal output from the multiplying unit.

Consider claim 12. The nearest prior art as shown in Bang fails to teach a CDMA communication apparatus in which, with a plurality of transmission data each having a data signal and a pilot signal, the pilot signal is spread with a first spreading code, the

data signal is spread with a second spreading code and all of the spread transmission data are added to each other and the added data is transmitted comprising: controlling the transmission power of the transmission data by a transmission power control unit in such a way the transmission power of the pilot signal is made substantially equal to the transmission power of the data signal and transmitting the transmission data with the power controlled by the transmission power control unit.

Consider claim 25. The nearest prior art as shown in Bang fails to teach a CDMA communication method and apparatus in which, with a plurality of transmission data each having a data signal and a pilot signal, the pilot signal is spread with a first spreading code, the data signal is spread with a second spreading code and all of the spread transmission data are added to each other and the added data is transmitted comprising: controlling the transmission power of the transmission data by a transmission power control unit in such a way the transmission power of the pilot signal is made substantially equal to the transmission power of the data signal and transmitting the transmission data with the power controlled by the transmission power control unit.

Response to Arguments

4. Applicant's arguments filed March 24, 2004 have been fully considered but they are not persuasive.

Applicant argues that the claims distinguish over Bang because it is alleged that Bang only controls power levels in a test operating state, rather than normal operation as in the instant invention. However even assuming that the applicant is correct in Bang

only being concerned with a test state, the claim cannot distinguish because it does not specify the operating condition of the device.

Conclusion

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip J. Sobutka whose telephone number is 703-305-4825. The examiner can normally be reached on Monday-Friday 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nay Maung can be reached on 703-308-7745. The fax phone numbers for

the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4700.

Philip Sobutka

Pjs
June 8, 2004

NAY MAUNG
SUPERVISORY PATENT EXAMINER